

SUMMARY NO. 3512

**INTRODUCED BY: VICKI M. TRAMONTE, COUNCILWOMAN AT LARGE, DIV. A
BARRY MINNICH, COUNCILMAN AT LARGE, DIV. B**

ORDINANCE NO. 92-10-11

An ordinance to adopt a Sexual Harassment Policy for the Parish of St. Charles.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

Section 1. Policy.

It is a policy of St. Charles Parish that all employees have a right to work in an environment free of discrimination which encompasses freedom from sexual harassment.

- (a) Specifically, this policy provides that no supervisor shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect, or that the submission to or rejection of advances will in any way influence any personnel decision regarding that employee's employment, assigned duties, shifts, or any other condition of employment or career development.
- (b) Other sexually harassing conduct in the workplace, whether physical or verbal, committed by supervisory or nonsupervisory personnel, is also prohibited. This includes repeated, offensive sexual flirtations, advances or propositions, verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, and the display in the workplace of sexually suggestive objects or pictures.
- (c) If an employee accuses another employee of sexual harassment and the action is found to have occurred, no retaliation will be taken against the accusing party by the offender or any other employee of the Parish. If an employee is a victim of sexual harassment, the employee shall present the complaint to the employee's immediate supervisor. If, in the event, the complaint involves the immediate supervisor, the employee shall present the complaint directly to the department director. If in the event, the complaint involves this individual, the employee shall present the complaint directly to the Personnel Officer. All complaints of sexual harassment will be dealt with immediately by the individual initially notified. If required, an investigation of the complaint will take place. All complaints of this nature should be confidential.
- (d) This policy forbids the discrimination against any individual with respect to his or her compensation, terms, conditions or privileges of employment.

Section 2. Sexual Harassment is Absolutely Prohibited.

The sexual harassment of any employee of the Parish by any other employee or non-employee is absolutely prohibited. The Parish will not tolerate the sexual harassment of any of its employees, and will take immediate, positive steps to stop it when it occurs.

Section 3. Definitions.

- (a) Sexual Harassment is behavior with a sexual content or overtone that is unwelcome and personally offensive. Sexual harassment can consist of sexually-oriented "kidding" or jokes; physical contact such as kissing, patting, pinching or purposely rubbing up against another person's body; demands or requests for sexual favors tied to promises of better treatment or threats concerning employment; discriminating against an employee for refusing to "give in" to demands or requests for sexual favors; or rewarding or granting favors to one who submits to demands or requests for sexual favors; displaying sexually explicit or pornographic material, no matter how it is displayed.
- (b) The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.
- (c) Harassment is any employee's, non-employee's or elected official's behavior, or any working environment condition that is perceived to interfere with one's job performance, to be intimidating, hostile or offensive. Harassment, either verbal or physical, which could be construed as affecting employment, continued employment, salary, appraisal, advancement or other employment decisions is unacceptable. These kinds of actions are discriminatory practices and will not be tolerated. Similarly, remarks or actions directed at an individual which have the effect of producing an intimidating or offensive work environment for that individual or interfere with his/her ability to perform are also considered to be harassment. In addition, remarks or actions which could be perceived as sexual harassment are unacceptable.

Section 4. Application of Sexual Harassment Policy.

- (a) This sexual harassment policy adopted by the Parish applies to all officers and employees of the Parish including, but not limited to, elected officials, full and part-time, and permanent and temporary classified and unclassified employees of the Parish.
- (b) This policy will be distributed to all officials and employees of the Parish. Every official and employee will be required to acknowledge his or her receipt and understanding of this policy in writing. A copy of that acknowledgement shall be kept on permanent file in the Parish. Department heads and supervisors shall also be responsible for ensuring that all employees under their direction are familiar with this policy.

Section 5. Making Sexual Harassment Complaints.

- (a) Any employee who feels he or she is being subjected to sexual harassment should immediately contact one of the persons below. Complaints may be made orally or in writing to:
 - (1) The employee's immediate supervisor.
 - (2) The employee's department head.
 - (3) The Parish Personnel Officer.
 - (4) The Parish Legal Department Director.
 - (5) The Parish President

- (b) Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint concerning sexual harassment.
- (c) Employees who believe they have been discriminated against are encouraged to immediately file charges with the Equal Employment Opportunity Commission, the Department of Labor, Office of Federal Compliance and the Compliance Office of any other Federal or State Agency.
- (d) Regardless of the specific person to which an employee makes a complaint of sexual harassment, the employee should be prepared to provide the following information:
 - (1) The employee's or official's name, department, and position title.
 - (2) The name of the person or persons committing the sexual harassment, including their title(s), if known.
 - (3) The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.
 - (4) All witnesses to the harassment.
 - (5) Whether such harassment has been previously reported, and, if so, when and to whom.

Section 6. Reporting an Investigation of Sexual Harassment Complaints Against Classified, Unclassified and Appointed Employees, or Elected Officials.

- (a) Complaints against classified, unclassified and appointed employees. The Parish Personnel Officer and his or her authorized representative is designated by the Parish to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the Parish Personnel Officer, the investigator shall be appointed by the Civil Service Board or Parish President.
 - (1) When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the Personnel Officer, or in the event the sexual harassment complaint is against the Personnel Officer, to the Civil Service Board.
 - (2) The Personnel Officer or his or her authorized investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

(3) When the investigator receives a complaint of sexual harassment, he or she shall immediately:

- a. Obtain a written statement from the person complaining of sexual harassment which includes a comprehensive report of the nature of the sexual harassment complained of, the times, dates, and places where the sexual harassment occurred; and the investigator shall verbally question the person complaining of sexual harassment about any information in the written statement which is not clear or needs amplification.
- b. Obtain written statement from witnesses which include a comprehensive report of the nature of the conduct witnessed, the times, dates and places where the conduct occurred, and the conduct of the person complaining of sexual harassment towards the person against whom the complaint of sexual harassment was made. The investigator shall verbally question witnesses about any information in their written statements which is not clear or needs amplification.
- c. Obtain a written statement from the person against whom the complaint of sexual harassment has been made. The investigator shall verbally question the person against whom the complaint of sexual harassment about any information in the written statement which is not clear or needs amplification.
- d. Prepare a report of the investigation, which includes the written statement of the person complaining of sexual harassment, the written statements of witnesses, the written statement of the person against whom the complaint of sexual harassment was made, and all the investigator's notes connected to the investigation, and submit the report to the appropriate higher authority: Parish President/Parish Attorney, Civil Service Board.

(b) Complaints against an elected official.

- (1) Complaints of sexual harassment against elected officials shall be investigated by the Personnel Officer or his or her authorized representative.
- (2) The investigator shall investigate the complaint against an elected official in the same manner as is outlined in this policy for the investigation of complaints against employees.

Section 7. Action on Complaints of Sexual Harassment.

(a) Complaints against an employee.

- (1) Upon receipt of a report of the investigation of a complaint of sexual harassment against an employee, the Director or supervisor of the department involved shall immediately review the report. If the Director of the department from which a sexual harassment complaint is made determines that the report is not complete in some respect, he or she may question the person complaining of sexual harassment, the person against whom the complaint of sexual harassment has been made, witnesses to

the conduct in question or any other person who may have knowledge about the conduct in question. The Director or supervisor of the department from which a sexual harassment claim is made shall also keep written records of his or her investigation in the same manner prescribed for the investigator. However, if the Director or supervisor of the department from which a sexual harassment claim is made feels that the investigation report is adequate, he or she may make a determination of whether sexual harassment occurred, based on the report.

- (2) Based upon the report, and his or her own investigation, where one is made, the Director or supervisor of the department involved shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making that determination, the Director or supervisor of the department involved shall look at the record as a whole and the totality of the circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining of sexual harassment. The determination of whether sexual harassment occurred will be made on a case-by-case basis.
- (3) If the Director or supervisor of the department involved determines that the complaint of sexual harassment is founded, he or she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his or her authority under the Home Rule Charter and Rules and Regulations of the Civil Service System, ordinances, resolutions or rules governing his or her authority to discipline employees.
- (4) The disciplinary action shall be consistent with the nature and severity of the offense, the rank of the employee, and any other factors that the Director or supervisor of the department involved believes relates to fair and efficient administration of the Parish, including, but not limited to, the effect of the offense on employee morale and public perception of the offense, and the light in which it casts the Parish. Disciplinary action may include demotion, suspension, dismissal, warning or reprimand. A determination of the level of disciplinary action shall also be made on a case-by-case basis.
- (5) A written record of disciplinary action taken shall be kept, including verbal reprimands. In all events, an employee found guilty of sexual harassment shall be warned not to retaliate in any way against the person making the complaint of sexual harassment, witnesses or any other person connected with the investigation of the complaint of sexual harassment.
- (6) In cases where the sexual harassment is committed by a non-employee against a Parish employee in the workplace, the Director or supervisor of the department involved shall take whatever lawful action against the non-employee as is necessary to bring the sexual harassment to an immediate end.

(b) Complaints against an elected official.

Upon completion of an investigation, the Personnel Officer or his or her authorized representative shall immediately submit the report of the investigation to the Equal Employment Opportunity Commission, the Department of Labor, Office of Federal Compliance, 29th Judicial District Court and the Louisiana Attorney General's Office.

The elected official shall be disciplined in the appropriate manner consistent with Federal and State law, the Home Rule Charter, ordinances, resolutions or other rules governing discipline of elected officials.

Section 8. Duty of Employees.

- (a) Employees are obligated to report instances of sexual harassment and to cooperate in every investigation of sexual harassment. This obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment, and to refrain from making bad faith accusations of sexual harassment.
- (b) Disciplinary action may be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

Section 9. Legal Liability.

State and federal law provide that an employer may be held legally responsible for acts of sexual harassment committed by one employee toward another as well as actions toward employees while on the job or at Parish-sponsored activities. In addition, state and federal laws provide that perpetrators of sexual harassment may be held personally liable for payment of monetary damages awarded to the victim(s) of sexual harassment.

NOW, THEREFORE, BE IT ORDAINED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL, DO HEREBY adopt a Sexual Harassment/Harassment Policy of the Parish of St. Charles.


The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

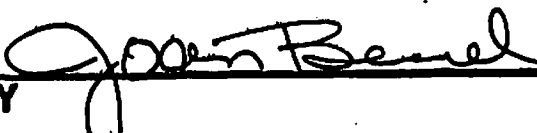
YEAS: TRAMONTE, MINNICH, ALEXANDER, CHAMPAGNE, NASSAR, SOMME', JOHNSON, DUHE, DANFORD

NAYS: NONE

ABSENT: NONE

And the ordinance was declared adopted this 5th day of October, 1992, to become effective five (5) days after publication in the Official Journal.


COUNCIL CHAIRMAN


SECRETARY

DELIVERED TO PARISH PRESIDENT Oct 6, 1992

APPROVED: _____

DISAPPROVED: _____


PARISH PRESIDENT

RETURNED TO SECRETARY ON Oct 7, 1992

AT 9:45 (AM) PM

RECEIVED BY 